

CHATHAM COUNTY PLANNING BOARD
MINUTES
SEPTEMBER 4, 2007

The Chatham County Planning Board met in regular session on the above date in the auditorium of the Cooperative Extension Building in Pittsboro, North Carolina. A quorum was present to begin the meeting. The members present were as follows:

Present:

Chris Walker, Chair
Sally Kost, Vice-Chair
B.J. Copeland
Karl Ernst
Barbara Ford
Warren Glick
Clyde Harris
Jim Hinkley
David Klarmann
Delcenia Turner

Absent:

Judy Sharman

Planning Department:

Keith Megginson, Planning Director
Jason Sullivan, Assistant Planning Director
Lynn Richardson, Subdivision Administrator
Angela Birchett, Zoning Administrator
Kay Everage, Clerk to the Board

- I. CALL TO ORDER – Chair: Chairman Walker called the meeting to order at 6:00 p.m.

- II. APPROVAL OF AGENDA: Mr. Megginson proposed the following revisions to the agenda:
 - Item III. Consent Agenda B. 1. (Briar Chapel Phase 2, Briar Chapel Parkway and Catullo Road r/w/dedication final plat approval) be moved from the consent agenda and to Item VI. B. (after preliminary plat approval of Briar Chapel, Phase 2, Briar Chapel Parkway & Taylor Road Right-of-Way Dedication). He explained that it would not be appropriate to act on final before preliminary.

 - Add the following under Item VIII. Miscellaneous Requests or Required Actions
B. Baycorp Development, Inc. – request for extension of Conditional Use Permit deadline.
Mr. Megginson stated that staff received this request August 10, 2007 as noted in letter from Nicolas P. Robinson distributed tonight to Board members.

Ms. Kost made a motion; seconded by Mr. Ernst to approve the agenda as submitted with the two revisions noted above. There was no discussion on the motion and the motion passed unanimously.

III. CONSENT AGENDA:

- Mrs. Julia M. Cleaver, 295 River Forest Road, Pittsboro, NC, requested to comment on the Harrison Pond issue (Item III B. 2.)
- Ms. Kost stated that she had a question regarding The Retreat on Haw River, Phase 1A (Item III B. 3.).

Ms. Kost made a motion; seconded by Ms. Turner to approve the consent agenda as revised as follows:

1. Approval of minutes listed below (Item III. A.) as submitted;
2. Items III. B., 2. (Harrison Pond) and 3. (The Retreat on Haw River, Phase 1A) be removed from consent agenda for review.

There was no discussion on the motion and the motion passed unanimously.

(Note: Item III. B. 1. was removed from consent agenda under approval of agenda as noted above.)

A. Minutes:

Consideration of a request for approval of Board minutes for July 31, 2007 special Planning Board meeting and August 7, 2007 regular Planning Board meeting.

B. Final Plat Approval:

1. ~~Request by Joe Grady, Jr. PLS, for subdivision final plat approval of Briar Chapel Phase 2, Briar Chapel Parkway and Catullo Road r/w/ dedication consisting of 15 acres, located off SR 1634, Hubert Herndon Road and SR 1529, Taylor Road, Baldwin Township and U.S. Hwy 15 501. *This item was removed from consent agenda for review - see Item VI. B.*~~
2. ~~Request by Harrison Pond, LLC for subdivision final plat approval of Harrison Pond, LLC, consisting of 42 lots on 74 acres, located off SR 1532, River Forest Road, Baldwin Township. Parcel #1907. *This item was removed from consent agenda for review - see Item IV. B.*~~
3. ~~Request by The Retreat on Haw River, LLC for subdivision final plat approval of The Retreat on Haw River, Phase 1A (f/k/a Williams Pond and Sanctuary at Haw River), consisting of 67 lots on 240 acres, located off SR 1711, Bynum Ridge Road, Baldwin Township. *This item was removed from consent agenda for review - see Item IV. C.*~~

End Consent Agenda

IV. PUBLIC INPUT SESSION:

- A. Fifteen-minute time of public input for issues **not on agenda**. Speakers limited to three minutes each.

Tim Seagroves and David Amory signed up to speak regarding items that were scheduled on the agenda. Chairman Walker explained that their comments would be heard during discussion of their particular issue of concern. Julia Cleaver noted that she was present regarding the Harrison Pond request.

Note: Harrison Pond and The Retreat on Haw River (items removed from consent agenda) were reviewed at this time.

B. Request by Harrison Pond, LLC for subdivision final plat approval of Harrison Pond, LLC, consisting of 42 lots on 74 acres, located off SR-1532, River Forest Road, Baldwin Township. Parcel #1907.

- Julia M. Cleaver, 295 River Forest Road, Pittsboro, NC

Ms. Cleaver stated that she was following up on a previous request that developers build a trail to the edge of the school property; that the proposed trail was not shown on the plat map (since the developers had not received feedback from school personnel at the time the maps were prepared); that the School Board is excited about the proposed trail although there was a lack of communication between the developers and School Board; that she hopes to have a community group come together and get some funding from grants, Parks and Recreation, private donations, and etc. to complete a trail that would benefit the school and community; and that the letter requested from the School Board is forthcoming and should be received before the next scheduled Commissioners meeting.

Nick Robinson, attorney, was present representing the applicant. Mr. Robinson stated that after preliminary plat approval, he sent a letter (on February 6, 2007) to the School Board stating that if the School Board would reply by July 1, 2007 the developer would agree to construct a trail along the road right-of-way from the entrance of Harrison Pond Subdivision to the school property; that a reply was never received; that after talking with Ms. Cleaver he called the project engineer and asked him to confer with the purchaser of the lots to see if it was still a feasible possibility to put in the trail; that the project engineer has stated that it is; that he received confirmation today from Dr. Ann Hart and Paul Joyce from the Chatham County Board of Education giving their verbal okay that the school was going to participate in constructing the part of the trail that is on the school property; and that the only distinction between what was said in his letter and now is that the purchaser of the lots would like the option to have it be asphalt paved trail rather than grit.

Discussion followed. Mr. Megginson suggested that the trail be shown on the plat map prior to going to the Commissioners and prior to recordation (i.e. location, easements) rather than the Board making the trail a condition. Mr. Robinson stated that the intent of the developer and purchaser is to put the trail in. He suggested that the trail be shown on the plat map with a note on the plat stating, "If the school builds its trail within two years of the date of approval of the final plat, the developer will construct the trail within no later than 45 days of the schools completion of the trail". Mr. Robinson stated that the developer would probably be willing to go ahead and build their part of the trail. Ms. Cleaver stated that a School Board work meeting is scheduled September 10, 2007 and that Mr. Robinson should receive the appropriate letter of support from the School Board after that time.

Motion to approve

Mr. Hinkley moved to approve the request with an additional condition to not allow recordation of the plat until the trail is shown on the map (up to meet where

the trail is to be on the school side). Mr. Klarmann seconded the motion. Discussion followed. Mr. Robinson stated concern that currently the school does not know where their portion of the trail is going to be. He suggested that this trail be shown on the plat map and that it be noted on the map that the school trail would connect to said trail (with no time restraint). Chairman Walker restated the motion that the request be approved with the condition that the trail be recorded on final plat before approval. Mr. Ernst made a motion to amend the original motion to include the two conditions recommended by staff (as stated in tonight's agenda notes). Mr. Copeland seconded the motion and the motion passed unanimously. The main motion passed unanimously (to grant approval of the request as recommended by staff with the additional condition that the trail connection to the Chatham County School property is shown on the final plat map prior to recordation, passed unanimously.)

The three (3) conditions are as follows:

1. A 20 foot wide undisturbed buffer (10 feet on both sides) shall be provided along the drainage area shown within Lot 42.
 2. The words "Open Space" shall be removed from the "Utility Easement and dedication of public right-of- way for possible future road extension" to the property of Mrs. H. H. Mann.
 3. The walking trail connection to the Chatham County School property shall be shown on the final plat map (Mylar copy) prior to recordation.
- C. Request by The Retreat on Haw River, LLC for subdivision final plat approval of The Retreat on Haw River, Phase 1A (f/k/a Williams Pond and Sanctuary at Haw River), consisting of 67 lots on 240 acres, located off SR-1711, Bynum Ridge Road, Baldwin Township.

Ms. Kost asked if the pond (Williams Pond) that is shown on the map had been drained. She noted that she was concerned about the wildlife.

Michael Zaccardo with the CE Group, Inc. was present representing the applicant. Mr. Zaccardo stated that plans have been prepared for the reconstruction of the dam; and that there were some problems and the old pond was lowered in order to install the needed structures for the new pond.

Mr. Copeland made a motion; seconded by Mr. Ernst to grant final plat approval of "The Retreat on Haw River, Phase 1A" with changes to the final plat as specified in attachment # 4 shown on the recordable Mylar copy, as recommended by staff. There was no discussion on the motion and the motion passed unanimously.

V. SKETCH DESIGN APPROVAL:

- A. Request by Harvest Community, LLC on behalf of Paul & Barbara McCoy, Woods of McCoy, Inc. for subdivision sketch design approval of "Harvest", consisting of 25 subdivision lots and four (4) exempt over 10 acre tracts

on 213 acres, located off SR-1972, Pea Ridge Road, Cape Fear Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that two streams on the property are shown as perennial streams on the County GIS Information and as intermittent streams on the USGS topo map; that the developer is researching this further; that based on the watershed regulations the right-of-way needs to be at least 10 feet away from the edge of the buffer; but that there are options to negotiate.

Discussion followed. Mr. Hinkley noted that the plat map was misleading in that it shows 50 foot buffer setbacks that should be labeled 100 foot. Ms. Richardson stated that staff has mentioned this to the developer; and that the developer has committed to 100 foot buffers from the bank of the stream landward on both sides of the stream. Mr. Hinkley inquired about the wetland setback behind the pond.

Anita Bahe, Project Manager, Harvest Community, LLC., stated that there were some mistakes made on the sketch plan regarding wetlands; that the developer is committed to the 100 foot buffers on perennial and intermittent streams outside the RC (river corridor) zone; and that the developer has opted (although not required) to designate 100 foot buffers along delineated wetlands.

Jeff Vaughan, Soil Scientist, Agri-Waste Technology, Inc. was present representing the applicant. Mr. Vaughan addressed wetlands delineation. He stated that a number of grass waterways currently exist on the property to carry water during wet weather events off the crop fields to low line areas; and that the water is ponding from the draws in the two wetland areas.

Ms. Bahe addressed the proposed trail along the Haw River and the hunting along game lands. She stated a very low impact, natural cover trail is proposed for walking, jogging and possibly mountain biking; that the developer is comfortable with the Army Corps of Engineers postings along the proposed property boundary regarding adjacent game lands; that the developer would also post notices along the proposed property boundaries; that in advance of selling any lots prospective buyers would be made aware that the property is adjacent to game land; and that it has been determined that it is not feasible for the developer to commit to 150 yard setback along the hunting zone.

Patrick Bradshaw, attorney, was present representing the applicant. Mr. Bradshaw stated that the applicant is acceptable with staff recommendations and that steps would be taken to give notification to landowners regarding adjacent game lands (i.e. language on plat map and etc.).

Board discussion followed regarding, 1.) safety of residents relative to adjacent game lands, 2.) private road maintenance agreement and 3.) restrictive covenants. Mr. Bradshaw addressed these issues. He noted that the covenants of this new community would far exceed any requirements already in existence.

The following adjoining landowners spoke:

- Bill Brocker, Hermitage Subdivision (16 lots – all at least 10 acres each)
Mr. Brocker noted concern regarding river front lots. He stated that he does not find any indication of zoning or covenants in the sketch plan; that he would prefer that the McCoy's keep the existing farm land; that if done right, this proposal is the best that he could hope for, i.e. 10 acre lots directly across the river from his land; and that the nature of the proposed trail is of some concern, i.e. keep a walking trail with no motor bikes.

Ms. Bahe stated that the entire community is dedicated to environmental stewardship. Ms. Richardson noted that the Watershed Regulations state that, "stream buffers can be used for passive recreation activity such as walking and biking trails provided the facility is outside the buffer" that would limit how the trail could be used. Mr. Bradshaw stated that if the Board deems appropriate he is in agreement to have as a condition that restrictions on the property would not allow motorized vehicles on the proposed trail. Mr. Vaughan explained the tree lines along the road.

- Treva Womble, 1855 Pea Ridge Road
Ms. Womble stated concerns regarding hunting, motor vehicles and horseback riding along the proposed trail.

- Merle Carr, 2272 Pea Ridge Road
Ms. Carr stated concerns regarding traffic, light pollution, noise, safety, and the impact that this proposal would impose on the area.

Samir Bahho, civil engineer, was present representing the applicant. Mr. Bahho stated that a traffic analysis for the area would be prepared.

- Kevin Brown, 26 Woods of McCoy Drive
Mr. Brown stated that this is a good effort to preserve the local heritage and the community. Mr. Brown inquired about the language on the plat map referring to private road maintenance agreement since Ms. Richardson stated earlier that public roads are proposed.

Mr. Bradshaw stated that the Woods of McCoy Road is currently private pursuant to a private road maintenance agreement; that the road serves three lots as well as a portion of Mr. McCoy's property; that Mr. McCoy reserved the right (if Mr. Wieler's company buys this land it would be assigned to him) to convert the roadway to a public road.

No other landowners requested to speak.

At this time, Mr. Klarmann recused himself from this issue. Chairman Walker stated for future reference members should recuse themselves before discussion of the issue begins, i.e. not just part of the vote.

Motion to postpone

Mr. Hinkley made a motion to postpone this request and have the developer come back with the correct information about the buffers and any other corrections the Board discussed tonight and that these corrections would be included on their next rendition and that the Board takes this issue up again

for possible approval during the October Planning Board meeting (October 2, 2007). Ms. Turner seconded the motion. Following discussion, Mr. Hinkley stated that if it is the consensus of the Board he would change his motion if the developer could be trusted to do what has been agreed.

Motion withdrawn and new motion stated to approve request with conditions

Mr. Hinkley withdrew his motion to postpone the request. As a point of order, Mr. Ernst stated that there needed to be a motion to withdraw the original motion. Ms. Kost then made a motion seconded by Ms. Ford to withdraw the original motion to postpone the issue until next month's Planning Board meeting. There was no discussion on the motion and the motion passed 9-0-1 with all Board members voting in favor of the motion except Mr. Klarmann who abstained.

Motion to Approve

Mr. Hinkley made a motion to grant sketch design approval for "Harvest" subdivision; that the conditions recommended by staff be met; and that the corrections that the Board suggested having to do with the buffers of the streams are corrected on the map. Mr. Harris seconded the motion. There was no further discussion and the motion passed 9-0-1 with all Board members present voting in favor of the motion except Mr. Klarmann who abstained.

The conditions are as follows: (Note: Conditions 1 - 5 were recommended by staff and approved by the Planning Board; and conditions 6 - 7 were additional recommendations made by the Planning Board.)

1. Prior to preliminary plat review; a determination shall be made based on NCDWQ guidelines as to the status of the stream shown located at the Pea Ridge/Pond entrance. If said stream is found to exist, the roadway shall be realigned to meet the requirements of Section 304 C. 2.
2. The preliminary plat shall label the roadways 'proposed public' or 'private' as decided.
3. Public or private access (depending on road status) to the adjacent property of Roberson shall be shown on the preliminary and final plat so as not to create a reserve strip between the two properties.
4. Water hazard setbacks/vegetative stream buffer areas shall be 100 feet per side for all perennial and intermittent streams per the developer's commitment as stated in the e-mail from Anita Bahe, dated August 22, 2007 and shall be shown on the preliminary and final plats.
5. The preliminary and final plats shall include a vicinity map.
6. Signage shall be placed along the common boundary of the Corps of Engineers property and the common boundary of the Womble property regarding the use of the adjacent property for hunting and other related uses which may conflict with residential land use. A note to the same effect shall be placed on the preliminary and final plats.

7. All changes specified above shall be shown on the preliminary and final plats.

Mr. Klarmann returned to the Board at this time.

- B. Request by Larry E. Henson on behalf of Edward P. Lineberger for subdivision sketch design approval of 1 lot (4th lot on an easement) consisting of 1.692 acres, located off Hwy 751, New Hope Township.

Ms. Richardson reviewed the agenda notes for this subdivision request. She stated that since the initial lots were approved by staff as a minor subdivision, a cul-de-sac was not required; and that if the Seagroves property is subdivided in the future, the road would have to be upgraded to public road standards (NCDOT standards), at which time a cul-de-sac would be required.

The following adjacent landowners spoke:

- Mr. and Mrs. Timothy Seagroves, 780 NC Hwy 751

Mr. Seagroves stated that he and his wife own lot #4 as shown on the plat map.

Ms. Seagroves voiced concern about keeping the natural environment and beauty of the neighborhood so that property owners could continue to enjoy their current lifestyle.

Mr. Seagroves stated that his question regarding upgrade of the road had already been answered; that it is his understanding that the upgrade would be done prior to subdividing the lot; that there is currently a road maintenance agreement in place; and that until recently it was thought that the existing easement was for all lots of concern.

Ms. Richardson explained that before the final plat would be allowed to be recorded the road upgrade (to a 16 foot wide travel way with 4 inches of crush and run) would have to be done and certified by a licensed surveyor and/or engineer that the upgrade was according to the proper standards. She stated that the applicant (or buyer of the lot) would absorb the cost of the road upgrade.

No other landowners requested to speak at this time.

Larry Hinson, applicant, was present. Mr. Hinson stated that he currently lives on the front lot on Hwy. 751; that he is very interested in keeping the atmosphere of that area the same; that the proposed lot would be for his daughter and son-in-law to build a home; and that he does not want to disturb the property any more than necessary.

Mr. Ernst made a motion; seconded by Mr. Copeland, to grant sketch design approval of "Division for Edward P. Lineberger" as submitted and as recommended by staff with the following two (2) conditions:

1. The travel way within the existing 60 foot easement shall be improved to a 16 foot wide travel way with four (4) inches of crush and run stone from Hwy 751 to the beginning of Lot 2B.

2. The final plat shall be reviewed and approved by staff as a minor subdivision of land after the roadway improvements have been completed and certified by a licensed surveyor or engineer, and the two tracts have received their Environmental Health permits.

There was no discussion on the motion and the motion passed 9-1-0 with all Board members present voting in favor of the motion except Ms. Kost who voted against.

Break – 5 Minutes

VI. PRELIMINARY PLAT APPROVAL:

- A. Request by Joe Grady, Jr. PLS, for subdivision preliminary plat approval of Briar Chapel, Phase 2, Briar Chapel Parkway & Taylor Road Right-of-Way Dedication, consisting of 15 acres, located off SR-1634, Hubert Herndon Road and SR-1529, Taylor Road, Baldwin Township.

Ms. Richardson reviewed the agenda notes for this request. She referenced E-mail dated September 4, 2007, from Monte Matthews, U.S. Army Corps of Engineers (distributed earlier tonight) regarding permit modifications with relatively minor additional impacts. (Note: A copy of this E-mail is filed in the Planning Department.) She noted that the proposed road names referenced in tonight's agenda notes and listed on the plat map are, 'Briar Chapel Parkway West' and Taylor Road' but should state, '**Briar Chapel Parkway** and '**Catullo Run**'; and that staff recommends approval of the request.

Board discussion followed. Mr. Klarmann inquired if landowners would have access to Taylor Road (where it encroaches the property of Leroy Clark, Jr.)

Ed Timoney, project manager for Briar Chapel stated that Taylor Road ends at the dirt road point and should have been named on the plat as "Catullo Run" and not Taylor Road; that this is a right-of-way received from Percy Fearington; and that the other landowners to the north of Taylor Road have access through an existing dirt road. Mr. Timoney addressed stream crossings.

Mr. Hinkley was concerned that the plat does not indicate the right-of-way that appears to be a power line. Mr. Timoney stated that this land is owned by Duke Power Company.

Regarding the bridge modifications required by NCDOT, Mr. Timoney stated that the original permit showed an 8 square foot wetland impact that may have been an error in the math; that what one square foot piers every 7 to 8 feet space were approved along the bridge; that what the final design has become is 6 piers that are 42 inches; and that the change in impact is 58 square feet (decreasing the wetland impact of eight hundredths of an acre).

Motion to approve

Mr. Copeland made a motion; seconded by Mr. Ernst to grant approval of the request as submitted and as recommended by staff with the condition that any construction related to the requested revisions to the stream crossing permits not impact the affected area until required permits have been approved.

Discussion followed. Ms. Kost stated that Briar Chapel is a huge project; that she was not on the Planning Board when Briar Chapel was initially approved; that she feels inadequate to vote on this request since she does not know enough about the development; and that she cannot give a conscience vote on this request. Roadways, location of entrance and buffers were discussed as to how they relate to the original plat approved. Ms. Richardson stated that the main file is on our website (under Planning, Subdivision and Rezoning Cases, then 2005); and that various phases follow the master plan. Mr. Timoney stated that this particular preliminary plat is just for what is referred to at the Phase 2 roadway and main entrance up to Polkberry Creek; that it is consistent with the Master Plan as it was approved; and that there are 100 foot buffers along the perennial streams.

The motion passed 9-0-1 with all Board members present voting in favor of the motion except Ms. Kost who abstained.

- B. Request by Joe Grady, Jr. PLS, for subdivision final plat approval of Briar Chapel Phase 2, Briar Chapel Parkway and Catullo Road r/w/ dedication consisting of 15 acres, located off SR-1634, Hubert Herndon Road and SR-1529, Taylor Road, Baldwin Township and U.S. Hwy 15-501. **Note: This item was removed from consent agenda for review.**

Ms. Richardson reviewed the agenda notes for this request.

Discussion followed. Ms. Kost asked why the Board is requested to approve the final plat if stream crossing permits have not been received. Ms. Richardson stated that the final plat would be held until appropriate permits are received.

Ed Timoney, project manager for Briar Chapel stated that the stream crossings were permitted in the original wetlands permit; that these have not been changed other than the one at the bridge; and that the developer is ready to pave from Hubert Herndon up to the bridge.

Mr. Klarmann made a motion; seconded by Mr. Harris to grant final plat approval of Briar Chapel Phase 2, Recombination, and Easement Dedication & Right-of-Way Dedication Plat as submitted and as recommended by staff. There was no discussion on the motion and the motion passed 8-0-2 with all Board members present voting in favor of the motion except Ms. Kost and Mr. Hinkley who abstained.

VII. PRELIMINARY AND FINAL APPROVAL:

- A. Request by The Parks at Meadowview, LLC for subdivision preliminary and final plat approval of The Parks at Meadowview, Phase 2A, consisting of 61 lots on 34 acres, located off SR-1520, Old Graham Road, Center Township.

Ms. Richardson reviewed the agenda notes for this request. She noted that this is not the last phase of the development to be submitted.

No adjacent landowners requested to speak.

Board discussion followed. Mr. Hinkley voiced concerns regarding the numerous phases and lots, private roads, water, sewerage, recycling, garbage collection and etc. He asked if the public road that accesses NC 87 joins with a private road and if so, does it show on the plat map? Ms. Richardson used the large overview map to show that this connectivity is indicated on the plat map. Ms. Ford voiced concern about the current dry weather conditions with regards to water availability. Ms. Richardson noted that the Town of Pittsboro is supplying the water for this subdivision.

Joe Faulkner, CE Group, Inc. was present representing the applicant. Mr. Faulkner stated that Phase 1A pump station is just now being finalized; and that certificate's of occupancy (CO's) have been obtained this month for some houses. Mr. Faulkner explained the layout of the project by using the overview map.

Nick Robinson, attorney, was present representing the applicant. Mr. Robinson stated that he has not received a reply from his letter to Dr. Hart with Chatham County Schools.

Board discussion continued. Mr. Ernst reviewed the four (4) conditions of sketch design approval (as listed in tonight's agenda notes). It was noted that conditions have been satisfied as warranted. Ms. Ford inquired if the Town of Pittsboro has any comment or say in this matter as we proceed with approvals with regard to the water.

Mr. Robinson stated that the Town of Pittsboro has obligated itself to provide a certain amount of water (in bulk) to the utility that serves the project; and that he has not received any comment or concern from the Town of Pittsboro as of this date. Mr. Faulkner stated that a water tank located in the Chapel Ridge subdivision would be used for water supply for this development.

Motion to approve

Mr. Ernst made a motion; seconded by Mr. Harris to grant approval of the road names Parkway Drive and Misty Glen Lane and to grant preliminary and final approval of "The Parks at Meadowview, Phase 2A" as submitted and as recommended by staff. There was not discussion on the motion and the motion passed 8-1-1 with all Board member present voting in favor of the motion except Mr. Hinkley who voted against; and Ms. Ford who abstained.

VIII. MISCELLANEOUS REQUESTS or REQUIRED ACTIONS:

- A. Request for development schedule extension for "The Glens"
(F/k/a McBane Subdivision).

Ms. Richardson reviewed the agenda notes for this request. She referred to letter dated August 9, 2007 from Nicolas P. Robinson requesting that each of the deadlines set forth in the development schedule be extended fifteen months with reasons for the request addressed. (Note: A copy of this letter is filed in the Planning Department.) Ms. Richardson noted that staff felt that this request might be one that the Board should address and therefore staff did not submit a recommendation.

Nick Robinson, attorney was present representing the applicant. Mr. Robinson stated that the developer is capable and willing to comply with the original deadline; that given the amount of work that is being done in this area (including the closure of part of Old Graham Road for bridge work) the developer requests an opportunity to extend the development schedule out a little further; and that the idea of allowing the original deadline to lapse and then being subject to currently formulated possible new ordinances is not something that the developer would want to be happen. Mr. Robinson noted the intensity of infrastructure along Old Graham Road.

Board discussion followed. Mr. Glick stated that the developer should benefit financially by an approval of the request; and that from that point of view Mr. Glick asked what the developer might offer the county in exchange.

Motion for postponement

Mr. Glick made a motion; seconded by Mr. Hinkley to postpone consideration of this request until next month's Planning Board Meeting (October 2, 2007) to allow additional time for the developer to consider what might be offered to the county in exchange for an approval of the request. Discussion followed. Mr. Hinkley stated that the developer could offer to increase the buffers throughout the entire development to 100 feet on each side of all streams (perennial, annual, and ephemeral). Mr. Walker stated that it would be a bad precedence to consider extensions of projects with any mention of market conditions being anything to do with the reason; and that based on his opinion he is not sure that he is willing to postpone the issue.

Kevin Whiteheart, County Attorney, stated that due to legal issues the Board should vote on the substance of the request without any exchange involved.

Withdraw of motion

Mr. Glick made a motion; seconded by Ms. Turner to withdraw his above motion for postponement. There was no discussion the motion and the motion passed unanimously.

Motion for denial

Ms. Kost made a motion; seconded by Ms. Turner that the development proceed on the current time line under the existing regulations and that the revision to the development schedule for "The Glens" be denied. There was no discussion on the motion and the motion passed 6-3-1 with Kost, Turner, Ford, Glick, Hinkley, and Walker voting in favor of the motion for denial; and Copeland, Harris and Klarmann voting against the motion; and Ernst abstaining.

B. Request for Extension of Conditional Use Permit Deadline for Baycorp Development, Inc.

Ms. Birchett distributed copies of letter dated August 10, 2007 from Nicolas P. Robinson requesting that conditional use permit validity be extended through October 17, 2009. (Note: A copy of this letter is filed in the Planning Department.)

Mr. Megginson stated that Baycorp currently has a conditional use district and a conditional use permit near the intersection of U.S. Highway 15-501 North Manns Chapel Road (SR 1532); that a financial institution such as a bank is proposed for this site; that one of the conditions of the permit is that zoning determination and building permit be issued within two (2) years of the approval or that an application for an extension be filed and approved; that the applicant has filed a two-year extension (October 17, 2009) since negotiations with potential tenants are taking longer than expected; and that it is difficult to continue negotiations with the impending expiration of the conditional use permit.

Nick Robinson, attorney, was present representing the applicant. Mr. Robinson stated that this is a conditional use permit for a bank site plan located at the intersection of Manns Chapel and U.S. Highway 15-501; that the property (4.6 acres) wraps around an existing CITGO station; that potential tenants have not yet committed to build the bank at this site; that the permit has a provision stating that the permit would expire on the second anniversary of its issuance unless a zoning determination and building permit had been issued, or that a timely filed application for an extension of time has been approved by Chatham County; and that this intersection is one that will be included as one of the commercial nodes. Mr. Robinson used the overview map to show the vicinity of the proposal.

Board discussion followed. Mr. Klarmann inquired if there was an option on the property if Baycorp does not get the requested extension. Mr. Robinson stated that Baycorp owns the property and would have to reapply for a conditional use permit. Ms. Kost noted that the new design standards would apply if a new conditional use permit is submitted after the Major Corridor Ordinance is in place. Mr. Hinkley voiced concern that this proposal would increase the current congestion along this busy intersection.

Motion to approve

Mr. Copeland made a motion; seconded by Mr. Harris, to grant approval of the request that the conditional use permit validity be extended through October 17, 2009. Discussion followed. Mr. Hinkley suggested deferring decision on the request until delineation of the commercial nodes by the Major Corridor Task Force is completed. Mr. Robinson stated that a traffic analysis was submitted with the initial conditional use application (in 2005) that showed no impact specifically based on the proposed usage.

Negative vote on motion

The vote on the motion was a 5 - 5 tie vote with Copeland, Harris, Ernst, Klarmann and Walker voting in favor of the motion; and Ford, Glick, Hinkley, Kost and Turner voting against.

Ms. Kost stated that the current Planning Board rules state that the Board should reconsider the request (when there is a tie vote) and revote; but that the rules do not state what is then done if the second vote is also a negative decision. Discussion followed regarding the nodes and future guidelines.

Rita Spina, Major Corridor Task Force member, stated that she recalls this property several years ago; that prior to Baycorp there was another request; that

she doesn't remember the particulars but that the developers ran into a problem about waste disposal; and that this intersection is a dangerous area and has had numerous accidents at this location.

Mr. Ernst, Planning Board Parliamentarian, stated that according to "Robert's Rules of Order", if there is a tie vote the adoption is lost and therefore the motion is denied. Ms. Kost stated that the Planning Board rules clearly state that the Board reconsider a tie vote. Chairman Walker stated that his interpretation is that the Board decides if there is any point to discuss the issue further; that if the vote is going to change then there is another motion made; and that there is not a revote on the previous motion. Ms. Kost stated that one potential compromise could be to recommend a different time period rather than two (2) years). Mr. Robinson stated that one (1) year extension would be acceptable. It was the consensus of the Board that the tie vote of 5-5 be forwarded to the Board of Commissioners.

IX. ZONING AND ORDINANCE AMENDMENTS:

Items from June 18, 2007 Public Hearing:

- A. Request by David Amory, Chase Real Estate Services, on behalf of Sprint Nextel to locate a communication tower within Chatham County for the 2007 tower plan as follows:
- 190 FT. monopole on NC 42 IN Corinth area 3

Ms. Birchett reviewed the agenda notes for this request. She stated that the Board removed this item from the July 10, 2007 agenda due to time restraints; that the request was rescheduled for July 31, 2007 [special Planning Board meeting]; that the issue was tabled at the July 31st meeting to allow additional time to receive information regarding the need for this tower (since Crown Castle also submitted a request for a tower in a separate location also on NC Hwy. 42); that the revised RF map was reviewed by staff and Dave LeGrys; that the opinion is that both towers are needed (Sprint Nextel and Crown Castle); that the overlap is minimal but needed to ensure that there are no drop areas between the towers; and that a **199 foot tower would be required.**

Comments by Dave LeGrys for Sprint Nextel and Crown Castle proposals

Dave LeGrys, former Planning Board member and author of the Chatham County Communications Tower Ordinance, was present. Mr. LeGrys stated that he has reviewed all of the tower requests (Sprint Nextel and Crown Castle); that he supports the RF maps for both tower requests; that he reviewed the potential to locate one or more towers on the existing water tower structure; that from a scientific prospective the best locations are proposed by the applicants; that all the towers need to be 199 feet; that the applicant needs to advise staff who will be the first provider to locate on the towers and to submit the official proposal.

Comments by Dave LeGrys regarding legislation

Mr. LeGrys commented briefly regarding legislation passed recently by the General Assembly. He stated that a Senate Bill was passed August 31, 2007 that takes affect December 1, 2007; and that some changes would be:

- No longer get to look at RF maps
- No longer get to decide the height of towers

- No longer get to require co-locations
- Applications have to be serviced 45 days

Mr. LeGrys suggested that the Board and staff recommend to the Board of Commissioners the following:

- Repeal the Cell Tower Ordinance on December 1, 2007, or
- Establish a moratorium to take affect on December 1st to allow time to represent the ordinance to accommodate the changes in this Senate Bill.

Mr. LeGrys stated that it has been his privilege and pleasure to work with staff these past years on cell towers; that the ordinance was a very innovative and progressive one; and that he would be willing to assist with ordinance revisions.

Discussion followed. Ms. Kost stated a concern voiced at public hearings is regarding a tower located near the National Heritage Area on Big Woods Road and the impact it would have on wildlife and etc. Mr. LeGrys stated that it has always been his opinion to place towers in the best spots at the proper heights and the fewest number possible; and that he has no concern about a 199 foot monopole tower placed in the Big Woods location.

Kevin Whiteheart, Chatham County Attorney, stated that he did not think that a moratorium could be enacted.

David Amory, Chase Real Estate Services, was present representing Sprint Nextel. Mr. Amory stated that his interpretation of the Legislative Bill is somewhat different from that of Mr. LeGrys; that language stated that RF maps could not be required (but certainly could still be requested); and that he did not see height limitations addressed.

Ms. Kost suggested that staff present a summary of the Legislation (as it relates to our current ordinances) along with a possible plan of action during next month's Planning Board meeting.

Motion to approve

Mr. Hinkley made a motion; seconded by Ms. Kost to approve the Chase Real Estate Services search ring request for Sprint Nextel for one (1) additional tower location be approved as a 199 foot tower and within the area requested. There was no discussion on the motion and the motion passed unanimously.

Request by Brenton W. McConkey, Parker Poe Adams & Bernstein LLP, on behalf of Crown Castle International to locate communication towers within Chatham County for the 2007 tower plan as follows:

- 199 ft. self supporting on NC 42 east of Corinth area 3
- 199 ft. self supporting on west side of Big Woods Rd. near Hugh Stone's land area 3
- 199 ft. self supporting on east side of Old Graham Rd. and north of Russell Chapel Rd. area 3

Ms. Birchett reviewed the agenda notes for this request. She stated that additional maps and information were received and reviewed by staff and Mr. LeGrys; that the tower plan for NC 42 was found to be acceptable; that a previous concern regarding the tower plan for Big Woods Rd. was that the applicant entertain the idea or possibility of locating the tower on the existing water tower located on Jack Bennett Rd. behind North Chatham Elementary School; that Mr. LeGrys has stated that the use of the water tower would not support the coverage area needed that the proposed tower can provide; that staff has found that the Big Woods Rd. tower request has been reviewed for the impact a communications tower might have on sensitive environmental areas; that findings are that the Big Woods Rd. site is not within any of the Significant Wildlife Heritage Areas; and that the ½ mile search ring does not encroach on the Bush Creek Marshes; that the existing water tower at Chapel Ridge was considered as a possible tower location but was found not to be of adequate service; and that the applicant was informed about the existing private air strip located off Lutterloh Road where lighting of the tower is not permitted and should not be a concern. Ms. Birchett noted that staff recommends that the search ring requests for all three (3) towers be approved as submitted.

Motion to approve

Mr. Hinkley made a motion; seconded by Mr. Harris that the Crown Castle search ring requests for all three(3) towers numbered as 7904-3579v2, 7920-3577, and 7897-3555 be approved. There was no discussion on the motion and the motion passed unanimously.

September 17, 2007 Public hearing

Mr. Megginson stated that items C. – G. below are scheduled for public hearing during the Commissioners' meeting September 17, 2007. He briefly reviewed the requests. He noted that item G. is a proposed text amendment to the Zoning Ordinance to reduce the double setback requirement to allow uniformity with the zoning district's minimum setback requirements that would be beneficial to schools.

- C. Request by Chatham Development Corporation to rezone approximately 15.16 acres located on the south side of US 64 E, 0.92 miles west of NC 751, New Hope Township, from RA-40 Residential Agricultural to Conditional Use B-1 Business.
- D. Request by Chatham Development Corporation for a Conditional Use B-1 Business Permit for a boat and RV storage facility on approximately 15.16 acres located on the south side of US 64 E, 0.92 miles west of NC 751, New Hope Township.
- E. Request by Nicolas P. Robinson, on behalf of General Shale Brick, Inc. to rezone approximately 192.5 total acres (3 tracts) located on Moncure Flatwood Road (SR 1924), Cape Fear Township, from RA-40 Residential Agricultural to Conditional Use Heavy Industrial (H-Ind.).
- F. Request by Nicolas P. Robinson, on behalf of General Shale Brick, Inc. for a Conditional Use Heavy Industrial (H-Ind.) Permit to allow for mining and brick manufacture, on approximately 407 total acres (4 tracts and a portion of 1 tract) located on Moncure Flatwood Road (SR 1924), Cape Fear Township.

- G. Request by Chatham County for a text amendment to the Chatham County Zoning Ordinance, Section 10, Item 10.1, 10.2, 10.3 Residential Agricultural List of Permitted Uses specifically for public and private schools to reduce the double setback requirement to allow uniformity with the zoning district's minimum setback requirements.

September 25, 2007 Public Hearing

Mr. Megginson stated that the County Commissioners have scheduled a public hearing Tuesday, September 25 at 7:00 p.m. in the Superior Courthouse in Pittsboro, NC regarding zoning the unzoned corridors in Chatham County (portions of US #1, US 64, US 421, Hwy. 87, Hwy. 15-501, and Moncure-Pittsboro Road.

Discussion followed. Ms. Kost asked if any public information, brochure, or pamphlet would be available for the public to better understand this zoning proposal. Mr. Megginson stated that one has not been developed but that the Zoning Ordinance is on line. Ms. Kost stated that an educational campaign is important to assist the public in learning about zoning. Ms. Turner expressed concern that the public be informed about zoning. Mr. Megginson stated that Jason Sullivan has talked about some information that the American Planning Association may have (question/answer form). Mr. Ernst was concerned that here had not been any concentrated effort to establish an outreach link with the public during this process; that the amount of time required was not offered; that the effectiveness of this kind of effort is that the public understands and accepts what is going on (one of the goals of the Strategic Plan relating to land use planning); and that if we are going forward this is what needs to happen.

X. OLD BUSINESS:

A. Lighting Ordinance

Mr. Megginson stated that there were several items outstanding regarding this issue; that the major one was whether to amend the Zoning Ordinance (as advertised) or apply the regulations throughout the entire county land use jurisdiction; that it is the opinion of the County Attorney, Kevin Whiteheart, that the regulations may be applied county wide through the general police power authority of the North Carolina General Statutes; that if the Board decides to apply the regulations county wide there would be more time to address questions since a stand alone ordinance would need to be drafted and re-advertised; and that the Commissioners' would need to schedule a public hearing.

Discussion followed. Ms. Kost stated that the Board had already voted on this issue (but could always reconsider) to make it applicable to the entire county especially when it dealt with the safety issue of canopy lighting. She asked if this had been communicated to the Commissioners. Mr. Megginson explained that it was a legal question at the time; that it had been communicated to the Commissioners; that now that the legal question has been answered it would be good to revisit the issue. Mr. Glick stated concern regarding the time line for replacing outdoor sports field lighting and how this applies to subdivisions (why were subdivisions excluded). Mr. Megginson explained that many subdivisions do not have lighting; that there are no regulations in the Subdivision Ordinance that require subdivisions to have lighting; and that if subdivisions do have lighting

there is no percentage for replacements. Mr. Walker explained that the issue of split subdivisions with two (2) vendors needs to be addressed.

Mr. LeGrys stated that if the issues with the dual providers is instrumental he would be interested in possibly changing the language to make it work for the existing subdivisions and move on with better lighting for the new ones; that he feels that canopy lighting is a critical issue and is one that he is not prepared to negotiate with; that the Governors Club situation may not be unique since there are other lighting providers that may have the same issues; and that he agrees with staff recommendations.

Ms. Kost stated that she would like for this issue to move forward for the zoned area of the county but that the process be started to make the ordinance applicable for the entire county, Mr. Glick referenced Section (q) Nonconformities (1), second sentence, that states,

“At the time that a non-conforming fixture is replaced, moved, upgraded, or otherwise changed, the fixture must be brought into compliance with the requirements of this ordinance”.

Mr. Glick suggested the following alterations to the above language.

“At the time that a non-conforming fixture is replaced or moved, to maintain or solve a security or safety issue the exemption shall remain in place. When a non-conforming fixture is upgraded or otherwise changed the fixture must be brought into compliance with the requirements of this ordinance”.

Mr. Hinkley stated that Mr. Glick’s revised language customizes the ordinance to match the Governors Club issue and that the entire county should be considered and how applicable it would be. Mr. Glick stated that the utility companies need to work out the issue.

John Henville-Shannon, a resident of Governors Club, stated that there seems to be a misunderstanding of what belongs to Governors Club and what is a generic requirement; that the last issue discussed does not have to do specifically with Governors Club but rather any community that has a decorative fixture that fails and has to be upgraded; that single / multiple provider is all the same; that it is the idea of consistency in any community or subdivision where there is a matching set of fixtures; that the idea of an ordinance is to have a generic solution to all communities within the affected area; that Governors Club has one unique requirement (dual providers); that it is not a Governors Club problem but a supplier problem; that the ordinance should be general enough to accommodate all situations that you can foresee arising within Chatham County; and that if the ordinance is written properly it would never have to be changed.

Mr. LeGrys suggested the implementation of “solid top” fixtures for existing subdivisions; and that these fixtures provide a substantial benefit since the fixtures are readily available and present a less impact to the subdivision.

Discussion followed regarding cost and supply to existing homeowners and canopy lighting for businesses. County Attorney, Kevin Whiteheart stated that he would look into the issue of canopy lighting regarding whether the Legislature has made any changes that would affect the five-year compliance period (since our ordinance was established). Chairman Walker noted the following specific:

- Does the Board want to go forward with an amendment to the current Zoning Ordinance (and to continue pursuing it county wide), and if so, revise language and forward to the Commissioners as a recommendation.

Motion to proceed with text amendment applied to zoned areas

Ms. Kost made a motion; seconded by Ms. Ford, to proceed with the Lighting Ordinance as a text amendment to the Zoning Ordinance applied to the zoned areas of the county; and to ask the County Commissioners to hold a public hearing to get citizens input on applying the ordinance to the entire county. Discussion followed. Some Board members were concerned that the above motion should be a two part motion.

Loyse Hurley, Chatham County Environmental Review Board member, stated that it seems that the Board wants a stand alone county wide Lighting Ordinance; that the Board appears to be talking about an implementation schedule (zoned areas first); that she is concerned about public relations if only applied to the Zoning Ordinance; and that she thinks having a stand alone ordinance with an implementation schedule would create less static and be more compatible.

Discussion followed. Chairman Walker noted that this would still have to go back through public hearing. Ms. Kost stated that this would take so much time; that she feels the pressure (along with Mr. LeGrys) to move this issues forward since we have waited years for it to happen; and that if it needs to go into the Zoning Ordinance to make it happen now she is okay with it.

Called the question

Mr. Hinkley called for the question. The vote to cut off debate passed 9-1-0 with all Board members present voting in favor of cutting off the debate except Mr. Glick who voted against.

Vote on motion

Ms. Kost stated that her motion implies that we are going to move ahead with this ordinance and apply for the zoned portions of the county; that at the same time ask the Commissioners to hold a public hearing so that they can broaden it to the entire county; and that details of the language to be determined in a separate motion.

The motion passed 9-0-1 with all Board members voting in favor of the motion except Mr. Ernst who abstained.

Discussion continued regarding details of the Lighting Ordinance. Ms. Kost summarized the following outstanding issues:

- Uniformity of fixtures (when there is more than one utility)
- Cots of retrofitting
- Legality of the five year term for retrofitting (canopy lighting)
- Sports field (continue with 30%) or continue nonconforming
- Non-cutoff decorative post-mounted fixtures (solid top)
- Security lighting (full cutoff classification)

Mr. LeGrys stated that he thinks canopy lighting should be retrofitted; and that fixtures need to be made more available and easier to work with.

Motion and vote that nonconforming fixtures be retrofitted and brought into compliance:

Ms. Kost made a motion; seconded by Ms. Ford that (in principle) we adopt that nonconforming fixtures be retrofitted and brought into compliance. Discussion followed. Mr. LeGrys suggested that canopy lighting be considered separately. The motion passed 8-2-0 with all Board members present voting in favor of the motion except Mr. Ernst and Mr. Klarmann who voted against.

Motion to postpone further discussion

Ms. Kost made a motion seconded by Mr. Harris to postpone further discussion of this issue until next month's Planning Board meeting (October 2, 2007) to allow additional time to review outstanding issues and to address these issues at said meeting. Discussion followed regarding nonconforming. The motion passed 8-1-1 with all Board members present voting in favor of the motion except Mr. Glick who voted against the motion, and Ms. Turner who abstained.

- B. Public Records Law – update on Chatham County's List Serve
This issue was not discussed.

XI. NEW BUSINESS:

- A. Planning Director's Report
There were no reports submitted.
- B. Planning Board Member Items

1. *Land Use Plan*

Mr. Hinkley stated that the Planning Board was charged by the County Commissioners to work on the Subdivision Regulations, the Zoning Ordinance, and the Land Use Plan; and those we have not yet done work on the Land Use Plan.

2. *Environmental Review Board*

Ms. Kost stated two issues that the Environmental Review Board has recently dealt with are 1. Riparian buffers and 2.) environmental assessment trigger; that a recent E-mail to Board members from Mr. Megginson listed two dates (October 3 or 4) for a special joint meeting of the Planning Board and Environmental Review Board to discuss these issues; that she has not received responses from all Board member; that Commissioner Lucier has stated that he would like to attend the joint meeting but would not be available October 4 but could make an October 3 meeting; that Mr. Hinkley had asked that Dr. Jim Gregory, professor at NC State, be permitted to give a presentation on stream identification (1st item

on agenda); that Dr. Gregory prefers an October 3 meeting; and that she suggests that the meeting begin at 6:30 p.m. with the location is to be determined. Mr. Klarmann asked if representatives from DWQ and NC Forestry Service could also be invited to speak at the joint meeting to offer a different perspective on the issues.

Mr. Copeland left the meeting at this time. (10:32 p.m.)

Following discussion, it was the consensus of the majority of the Board that a special meeting be scheduled later to invite Dr. Gregory and representatives from DWQ and NC Forestry Service since the primary purpose of the joint meeting is to discuss riparian buffers. It was the consensus of the majority of the Board that the joint meeting be scheduled for October 3, 2007 at 6:30 p.m. with a location to be determined.

XII. ADJOURNMENT: Mr. Ernst made a motion; seconded by Ms. Kost to adjourn tonight's meeting. There was no discussion on the motion and the motion passed unanimously. The meeting adjourned at 10:40 p.m.

Chris Walker, Chair

Date

Attest: _____
Kay Everage, Clerk to the Board

Date